



South Carolina House of Representatives

# Legislative Update

Robert W. Harrell, Jr., Speaker of the House

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***NOTE: THESE SUMMARIES ARE PREPARED BY THE STAFF OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES AND ARE NOT THE EXPRESSION OF THE LEGISLATION'S SPONSOR(S) OR THE HOUSE OF REPRESENTATIVES. THEY ARE STRICTLY FOR THE INTERNAL USE AND BENEFIT OF MEMBERS OF THE HOUSE OF REPRESENTATIVES AND ARE NOT TO BE CONSTRUED BY A COURT OF LAW AS AN EXPRESSION OF LEGISLATIVE INTENT.***

# HOUSE WEEK IN REVIEW

The House of Representatives amended, approved, and sent the Senate **H.4223**, the **"SOUTH CAROLINA PAIN-CAPABLE UNBORN CHILD PROTECTION ACT"** which establishes a prohibition on the performance of abortions beginning at twenty weeks following fertilization. The bill includes legislative findings regarding substantial medical evidence indicating that an unborn child has developed sufficiently to be capable of experiencing pain by twenty weeks after fertilization and the state's interest in protecting the lives of unborn children beginning at the stage at which substantial medical evidence indicates that they are capable of feeling pain. This legislation provides that, except in the case of a medical emergency, no abortion must be performed, induced, or attempted unless a physician has first made a determination of the probable post-fertilization age of the unborn child or relied upon such a determination made by another physician. Any person who intentionally or knowingly fails to conform to this requirement is guilty of a misdemeanor subject to a fine of not less than two thousand dollars nor more than ten thousand dollars and/or imprisonment for not more than three years. No part of the minimum fine may be suspended. For conviction of a third or subsequent offense, the sentence must be imprisonment for not less than sixty days nor more than three years, no part of which may be suspended. Failure by any physician to comply constitutes unprofessional conduct. The legislation prohibits abortions from being performed, induced, or attempted when the determination has been made that the probable post-fertilization age is twenty or more weeks. An exception is allowed for cases in which the mother has a condition that so complicates her medical condition as to necessitate the abortion to avert her death or to avert serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions. When an abortion must be performed where the probable age of the fetus is twenty or more weeks, the legislation requires the physician to proceed in a manner which provides the best opportunity for the unborn child to survive, unless terminating the pregnancy in this manner would pose a greater risk of either death or substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions, of the woman than would other available methods. Physicians performing abortions must provide certain information, including post-fertilization age, on required reports to the state registrar, Department of Health and Environmental Control. The legislation includes provisions for reports made by physicians to protect individual patient information as well as for the reporting of abortion statistics to the public by the department. The legislation includes penalty provisions for any physician who fails to submit reports within certain timeframes. Intentional or reckless falsification of any report by a physician is a misdemeanor. Any woman upon whom an abortion has been performed or induced in violation of these provisions, or the father of the unborn child, or any woman upon whom an abortion has been attempted in violation of these provisions, may maintain an action against the person who performed or induced the abortion in intentional or reckless violation of these provisions for actual and punitive damages. The legislation allows for a cause of action for injunctive relief against any person who has intentionally or recklessly violated these provisions. If judgment is rendered in favor of the plaintiff in an action, the court shall render judgment for a reasonable attorney's fee in favor of the plaintiff against the defendant. No damages or attorney's fee may be assessed against the woman upon whom an abortion was performed or induced or attempted to be performed or induced. The legislation includes provisions requiring the court to rule in every civil or criminal proceeding brought under these provisions whether

the anonymity of any woman upon whom an abortion has been performed or induced must be preserved from public disclosure if she does not give her consent to such disclosure.

The House concurred in Senate amendments on **H.3231**, legislation **PROHIBITING DISCRIMINATION AGAINST MOTORCYCLES** in public transportation policies, and enrolled the bill for ratification. This legislation provides that in formulating transportation policy, promulgating regulations, allocating funds, and planning, designing, constructing, equipping, operating and maintaining transportation facilities, no action of the South Carolina Transportation Commission, or the South Carolina Department of Transportation shall have the effect of discriminating against motorcycles, motorcycle operators, or motorcycle passengers. The legislation further provides that no regulation or action of the commission, or department shall have the effect of enacting a prohibition or imposing a requirement that applies only to motorcycles or motorcyclists, the principal purpose of which is to restrict or inhibit access for motorcycles and motorcyclists to any highway, bridge, tunnel, or other transportation facility. Local governments are required to make reasonable accommodations for motorcycle parking in their parking garages and other transportation facilities. In carrying forward this requirement, among other options, these local government facilities, at their discretion, may comply by sectioning portions of the area where the size configuration of the space does not meet code requirements for full-size vehicles. The legislation provides that making reasonable accommodations for motorcycle parking does not mandate the structural or technological modification of existing parking structures.

The House concurred in Senate amendments on **S.405** and enrolled the bill for ratification. This legislation provides that the **COMMISSION ON JUDICIAL CONDUCT, UNDER THE AUTHORITY OF THE SUPREME COURT, SHALL HANDLE COMPLAINTS AGAINST ADMINISTRATIVE LAW COURT JUDGES** for possible violations of the Code of Judicial Conduct in the same manner as complaints against other judges. Currently, complaints against Administrative Law Court judges are handled by the State Ethics Commission.

The House concurred in Senate amendments on **H.3410** and enrolled the bill for ratification. The legislation provides for the **TRANSFER OF THE REGIONAL EDUCATION CENTERS** established by the Education and Economic Development Coordinating Council to the Department of Commerce. The Department of Commerce shall seek input from the State Department of Education in providing oversight for the centers' career-oriented learning and training services.

The House concurred in Senate amendments on **H.3978**, legislation revising provisions relating to **MEDICAID NURSING HOME PERMITS**, and enrolled the bill for ratification. The legislation: provides a new definition for "Medicaid permit day"; specifies the manner in which additional Medicaid permit days are allocated; establishes new reporting requirements; and, sets forth compliance standards with penalties imposed upon facilities that exceed their allotment of Medicaid permit days.

The House approved and sent the Senate **H.4922**, a bill relating to **HIRING PREFERENCES FOR VETERANS**. The legislation provides that it is not an unlawful employment practice for a private employer to give preference in employment to a veteran. This preference is also extended to the veteran's spouse if the veteran has a service-connected permanent and total disability. The legislation provides that these

hiring preferences are not violations of the South Carolina Human Affairs Law provisions that address discriminatory employment practices.

The House returned **S.148** to the Senate with amendments. The legislation establishes **IDENTITY THEFT SAFEGUARDS FOR PROTECTED CONSUMERS**, a special class of consumers composed of children as well as adults who are incapacitated or otherwise under another's guardianship. To help prevent the identities of these protected consumers from being stolen and used for such purposes as opening fraudulent credit accounts, the legislation establishes requirements for consumer reporting agencies to place security freezes on the records of those under the age of sixteen as well as incapacitated individuals and protected individuals for whom a guardian or conservator has been appointed upon the request of parents or other representatives who can produce sufficient proof of their authority to act on behalf of the protected consumers. A consumer reporting agency may not charge any fees for implementing security freezes for protected consumers or for creating any consumer credit files needed to implement such security freezes.

The House returned **S.657** to the Senate with amendments. This legislation updates and revises **MAGISTRATE JURY POOL AREAS** in every county. The legislation also provides that, if for a period of six months after being notified of the number of magistrates in each county by the county governing body, the Senators of that county have not made a recommendation to the Governor for any such magisterial position in that county, the authority to make those recommendations is devolved upon the county's House of Representatives Legislative Delegation.

The House amended, approved, and sent the Senate **H.4920**, a joint resolution providing for the **TEMPORARY TRANSFER OF ADMINISTRATIVE CONTROL OVER THE JOHN DE LA HOWE SCHOOL TO THE DEPARTMENT OF JUVENILE JUSTICE**. The legislation provides that, through Fiscal Year 2014-2015, the Department of Juvenile Justice shall assume administrative control of the John de la Howe School. During this period, the powers and duties of the John de la Howe School board of trustees must be transferred to the department, and the school's board of trustees is to serve in an advisory capacity as a plan is developed for implementing the institutional governance that will allow this school for at-risk youth to fulfill its mission of meeting the needs of children from all across the state who for urgent reasons must be separated from their home or community.

The House approved and sent the Senate **H.4921**, a joint resolution relating to **SCHOOL DISTRICT SALARY NEGOTIATIONS WITH RETIRED TEACHERS**. The legislation provides that school districts uniformly may negotiate salaries below the school district salary schedule for the 2014-2015 school year for retired teachers who are not participants in the Teacher and Employee Retention Incentive (TERI) Program.

The House amended, approved, and sent the Senate **H.3983**, the **"SOUTH CAROLINA RURAL COUNTY ACCESS TO EMERGENCY HEALTH CARE ACT"**. The legislation establishes provisions under which a hospital located in a rural county that has closed and relinquished its license to operate may, within three years from the date of closure, reopen the hospital for purposes of converting it to a freestanding emergency facility without having to obtain a Certificate of Need that would otherwise be required under the "State Certificate of Need and Health Facility Licensure Act".

# HOUSE COMMITTEE ACTION

## EDUCATION AND PUBLIC WORKS

The full Education and Public Works Committee met on Wednesday, March 19, 2014.

The full committee gave a favorable with amendment report to [H.4386](#), legislation providing a **PROHIBITION ON TEXTING WHILE DRIVING**. The legislation prohibits a person from using a wireless electronic communication device to compose, send, or read a text-based communication while operating a motor vehicle on public roads. The use of a global positioning system device or an internal global positioning system feature or function of a wireless electronic communication device for the purposes of navigation or obtaining traffic related traffic and road condition information is not a violation. Also, the prohibition does not apply to a person operating a vehicle while: (1) lawfully parked or stopped; (2) using a hands-free wireless electronic communication device; (3) summoning emergency assistance; (4) transmitting or receiving data as part of a digital dispatch system; or (5) a public safety official while in the performance of the person's official duties. A first offense violation is punishable by a fine of \$100, or imprisonment for not more than 30 days, or both. Additionally, two points must be assessed against the person's motor vehicle operating record. For a first offense, in lieu of the penalty, the legislation allows for successful completion of a driver's education program approved by the Department of Public Safety's Office of Highway Safety within 60 days of the conviction. If the person fails to successfully complete the program within the required time frame, the penalty will be imposed by the judge. Completion of a program in lieu of a penalty is limited to individuals considered not to have been convicted of a prior violation. A second or subsequent offenses violation of these provisions within ten years of a prior offense is punishable by a fine of \$500, or imprisonment for not more than 30 days, or both. Additionally, four points must be assessed against the person's motor vehicle operating record. The legislation prohibits a law enforcement officer from: (1) stopping a person for a violation of this provision except when the officer has probable cause that a violation has occurred based on the officer's clear and unobstructed view of a person who is using a wireless electronic communication device to compose, send, or read a text-based communication while operating a motor vehicle on the public roads; (2) seizing or requiring the forfeiture of a wireless electronic communication device because of a violation of this provision; (3) searching or requesting to search a motor vehicle, driver, or passenger in a motor vehicle, solely because of a violation of this provision; or (4) making a custodial arrest for a violation of this provision, except upon a warrant issued for failure to appear in court when summoned or for failure to pay an imposed fine. The legislation requires the Department of Public Safety to maintain statistical information regarding citations issued. The legislation requires law enforcement officers to issue only warnings for the first 180 days. Additionally, the legislation preempts local ordinances, regulations, and resolutions adopted by local government entities regarding persons using wireless electronic communication devices while operating motor vehicles on the public roads.

The Education and Public Works Committee gave a favorable report to [H.4646](#), relating to the **BOARD OF TRUSTEES OF THE GOVERNOR'S SCHOOL FOR SCIENCE AND MATHEMATICS**. Under current law, the provost of or vice president for academic

affairs from each of the following higher education research institutions serve ex officio on this board: Clemson University; the University of South Carolina; and the Medical University of South Carolina. This legislation allows a provost or vice president of academic affairs who serves as an ex officio member of the Board of Trustees of the Governor's School for Science and Mathematics to designate a person to serve in his place.

The full committee gave a favorable with amendment recommendation to H.3994, legislation which enacts the "**SOUTH CAROLINA READ TO SUCCEED ACT**". However, the committee report has not been published in the House Journal as of publication of this week's *Legislative Update*.

## JUDICIARY

The full Judiciary Committee met on Tuesday, March 18, 2014.

The full committee gave a favorable with amendment report to H.4519. This legislation establishes the **CAPITOL POLICE FORCE**, which consists of the Capitol Police Force, the Sergeant at Arms of the Senate, and the Sergeant at Arms of the House of Representatives.

### **Transfer of Personnel and Property to the Capitol Police Force**

The legislation provides that the functions, powers, duties, and responsibilities exercised by the Department of Public Safety and the Bureau of Protective Services at the State House and capitol grounds and in all state buildings and parking lots and garages on or around the capitol grounds, including all classified and unclassified employees whose duties involve the provision of security services at these locations and all real and personal equipment used in the provision of security services, are devolved upon and transferred to the Capitol Police Force. However, this transfer excludes those areas of the State House that are reserved for the executive chamber and the Governor's staff as well as those powers, duties, responsibilities and authorities related to the provision of security for the Governor and the Governor's staff.

### **Capitol Police Force Committee**

The legislation creates the Capitol Police Force Committee consisting of the Sergeant at Arms of the Senate; Sergeant at Arms of the House of Representatives; and the Director of General Services as a nonvoting member. The duties of this committee include appointing a Chief of the Capitol Police Force, promulgating regulations, and establishing salaries for employees, subject to appropriations.

### **Chief of the Capitol Police Force**

The Chief of the Capitol Police Force serves at the pleasure of the Capitol Police Force Committee and may be removed from office by the committee at its discretion. The legislation sets forth various duties of the Chief. The legislation permits the Chief to

employ such deputy officers and other employees as necessary, adopt necessary rules, and apply for and accept, with the approval of the Capitol Police Force Committee, any grants and other forms of revenue to assist in funding the provision of security services on the capitol grounds. The Chief may enter into written agreements between other law enforcement jurisdictions for the purpose of criminal investigations. The legislation requires the Chief and his deputies to demonstrate knowledge of the duties of law enforcement officers or undergo training required of officers of the State Law Enforcement Division (SLED). The legislation requires the Chief to request assistance in providing security services at the State House and capitol grounds for special events and other times in the Chief's discretion. Additionally, the Chief must coordinate criminal investigations conducted on the capitol grounds with the SLED. The legislation authorizes the Chief, in his discretion, to request assistance from SLED in criminal investigations.

### **Duties and Arrest Powers of the Capitol Police Force and Sergeants at Arms**

The legislation provides that the Sergeant at Arms of the Senate and the Sergeant at Arms of the House of Representatives have exclusive care and charge over specific areas where their respective members' offices and meeting rooms are located. They also have primary responsibility for providing security services for their respective members attending public meetings located outside the State House and capitol grounds.

The Chief of the Capitol Police Force and his deputy officers have primary care and charge over those areas of the State House and capitol grounds not reserved to the Sergeants at Arms. Additionally, the Chief and his officers have the authority to patrol and respond to security and law enforcement-related matters in any area within a one block radius beyond the capitol grounds. The Capitol Police Force shall provide security services for all uses of the State House lobbies, State House steps and grounds, and all public buildings and grounds in the capitol complex. The Director of the Division of General Services may authorize the use of the State House steps and grounds, and other public buildings and grounds on the capitol grounds, but the director must consult with the Chief regarding security issues before authoring the use of or the placement of restrictions on the use of these locations.

The legislation provides for the duties of the Chief of the Capitol Police, the Sergeants and their deputy officers, which among other things include protecting person and property in the State House and capitol grounds, in all state buildings, parking lots and garages on or around the capitol grounds; preserving and maintaining proper order and decorum; preventing unlawful assemblies and disorderly conduct; enforcing laws pertaining to trespass; providing security services for all persons and property involved in the operation and parking of motor vehicles in state parking lots and garages on or around the capitol grounds; and enforcing the laws of South Carolina. The Capitol Police Force may issue parking tickets. The legislation provides that the Chief of the Capitol Police Force, the Sergeants at Arms, and all their deputies shall have the same arrest power and power to serve criminal processes against offenders as officers of SLED and the same power as officers to arrest without warrants and to detain persons found violating or attempting to violate any laws of the state.

### **State Law Enforcement Division**

The legislation includes provisions relating to SLED. The legislation requires the Chief of SLED, or his designee, to provide annual training to the Chief of the Capitol Police Force, the Sergeants at Arms, and their deputy officers. The Chief of SLED shall provide assistance in criminal investigations and providing security services at the State House and capitol grounds when requested by the Chief of the Capitol Police Force. Additionally, the legislation provides for assistance from other law enforcement agencies when requested by the Chief of Capitol Police.

### **Trespasses and Offenses on the Capitol Grounds and in Capitol Buildings**

Relating to trespasses and offenses on the capitol grounds and in capitol buildings, and related matters, this legislation further provides for these trespasses and offenses, for law enforcement authority over them, and the related jurisdiction of specified courts. The legislation deletes provisions relating to night watchmen and policemen employed by the State Budget and Control Board for the protection of property.

The full House Judiciary Committee gave a favorable report to [H.4452](#). This legislation provides clarification relating to the **PAYMENT OR REIMBURSEMENT OF REASONABLE AND NECESSARY EXPENSES ASSOCIATED WITH THE CAMPAIGN OR THE OFFICE**. The legislation provides that any payment or reimbursement of mileage for travel associated with the campaign or office must be at the rate established for the year by the Internal Revenue Service; the payment or reimbursement for any lodging, food and beverage, or travel expenses, other than mileage, for the candidate, a member of the candidate's immediate family or staff must be for travel for the purpose of campaigning for office or otherwise a part of the official responsibilities of an officeholder. Official responsibilities of the officeholder include, but are not limited to, political party events, official appearances or meetings for which reimbursement is not offered by a governmental entity, and educational forums or conventions to which an officeholder is invited in his official capacity. Any communication or other office equipment purchased with campaign funds are considered the sole property of the campaign and must be disclosed as assets of the campaign at the time of purchase. Further, this equipment must be accounted for upon the final disbursement of a campaign account. Any payments to campaign or office staff must be made contemporaneously with the work provided. A campaign may not employ an immediate family member of the candidate.

[S.815](#) received a favorable recommendation from the full Judiciary Committee. This legislation makes revisions to clarify that any party may continue to use a **CONVENTION TO NOMINATE CANDIDATES**. This legislation provides that a party may choose to change nomination of candidates by primary to a convention if three-fourths of the convention membership approves of the convention nomination process, and a majority of the voters in that party's next primary election approves the use of a convention.

[H.3361](#) received a favorable report. This legislation authorizes **PROTECTIONS FOR PETS IN COURT ORDERS OF PROTECTION FROM DOMESTIC ABUSE** in order to prevent the mistreatment of an animal from being used as a means of threatening or coercing a domestic abuse victim. This legislation authorizes a court to prohibit harm or harassment of a pet animal in an order of protection from domestic abuse; the court may also order the temporary possession of pets when providing for the temporary possession of personal property.



The House full Judiciary Committee gave a favorable with amendment recommendation to [H.3539](#), legislation relating to the **SALE OF ALCOHOLIC LIQUORS**. The legislation removes the statutory prohibition on selling alcoholic liquors on statewide election days, and it further provides that it is unlawful for retail liquor stores to sell alcoholic liquors on Christmas Day.

[H.4630](#) received a favorable recommendation from the full Judiciary Committee. This legislation relates to the **EXPIRATION OR LAPSE OF THE LAW ENFORCEMENT CERTIFICATION OF AN OFFICER UPON HIS DISCONTINUANCE OF EMPLOYMENT**. The legislation provides an exemption when the law enforcement officer's employment is discontinued because of his absence from work due to a disability he sustained in that employment for which he receives workers' compensation benefits and from which he has not been authorized to return to work without restriction. The legislation requires satisfaction of continuing education requirements for this period, and the legislation makes these provisions retroactive to January 1, 2013.

[H.3626](#), providing for certain **ANNUAL ALCOHOL-RELATED LICENSES FOR THE OWNER OF A MOTORSPORTS ENTERTAINMENT COMPLEX**, received a favorable report. This legislation provides that the owner of a motorsports entertainment complex located in this state or his designee may apply for and be issued an annual license which authorizes the purchase, sale, and consumption of beer and wine at any occasion held on the grounds of the complex year round on any day of the week. The legislation provides for the terms and conditions for this annual license, including the fee, and provides for other matters relating to the administration of this license and applicable alcoholic beverage control laws in connection with the use of this license. The legislation further provides that the owner of a motorsports entertainment complex, or his designee, also may be issued, upon application, an annual license that authorizes the purchase, sale, and consumption of alcoholic liquors by the drink at any occasion held on the grounds of the complex under the same specified terms and conditions as provided for beer and wine permits.

The Judiciary Committee gave [H.4408](#) a favorable with amendment report. This legislation pertains to membership on the **STATE CHILD FATALITY COMMITTEE**. The legislation revises current provisions relating to the qualifications for the pediatrician serving on the committee that is appointed by the Governor; this legislation authorizes the appointment of a board certified or eligible for board certification child abuse pediatrician with experience in diagnosing and treating child abuse and neglect. The legislation authorizes the following additional committee members: one senator appointed by the President Pro Tempore of the Senate, one representative appointed by the Speaker of the House of Representatives, and the Chief Executive Officer of the Children's Trust of South Carolina.

[H.3400](#), pertaining to **DEPARTMENT OF SOCIAL SERVICES REPORTS AND AUDITS**, received a favorable with amendment report. This legislation requires the Department of Social Services (DSS) to report annually to the General Assembly on the number of Family Independence families and individuals no longer receiving welfare, the number of individuals who have participated in educational, employment, or training programs, the number of individuals who have completed educational, employment, or training programs, and the number of individuals who have become employed and the duration of their employment. Under current law, it is the Legislative Audit Council (LAC) that evaluates and reports similar information to the General Assembly every two years.

Also, this legislation requires LAC to conduct a management performance audit of a program of DSS every three years with selection of the program to be reviewed determined after consultation with the House Judiciary Committee and the Senate General Committee. The legislation authorizes LAC to charge DSS for federal funds, if available, for the costs associated with the audit.

[H.4670](#), legislation which provides an **EXPEDITED MORTGAGE FORECLOSURE PROCESS FOR ABANDONED PROPERTY**, received a favorable with amendment report. This legislation provides a process whereby a mortgagee or successor in interest to a mortgagee may move the court for an expedited judgment of foreclosure and sale of real property that is considered abandoned. A motion to expedite foreclosure and sale may be heard by the Master-in-Equity or Special Referee, or in those counties without a Master-in-Equity, by a circuit judge. Certain conditions must exist before a property is considered abandoned as the legislation defines the term 'abandoned property'. Also, the legislation includes specific examples of property not to be considered abandoned such as: buildings occupied on a seasonal basis but are otherwise secure; unoccupied buildings undergoing construction, renovation or rehabilitation that is proceeding diligently towards completion and is in compliance with the law; and secure buildings that are the subject of a probate action, action to quiet title or other ownership dispute.

[H.4454](#) received a favorable report. Under current law provisions relating to expenditures of **AUTHORIZED USE OF CAMPAIGN FUNDS** only apply to transactions of more than \$25. Under this legislation, all expenditures must be made by check drawn upon a campaign account; debit or credit card; or online transfers. Further the legislation deletes provisions which authorize establishment of a petty-cash fund.

Likewise, [H.4455](#) relating to **CAMPAIGN BANK ACCOUNTS**, received a favorable report. This bill provides that all expenditures, regardless of amount, must be made by check signed or authorized by the candidate or duly authorized officer of the committee; debit or credit card issued in the name of candidate or committee; or online transfer authorized by the candidate or a duly authorized officer of a committee.

[H.4457](#) received a favorable report. This legislation provides that **FINES, FEES, OR OTHER CHARGES IMPOSED BY AN APPROPRIATE SUPERVISORY OFFICE MAY NOT BE PAID FROM CAMPAIGN FUNDS**.

[H.4732](#) pertaining to the **CONDUCT OF PARTY CONVENTIONS OR PARTY PRIMARY ELECTIONS**, received a favorable recommendation from the Judiciary Committee. This legislation allows the process for the conduct of presidential preference primaries used in recent years to apply to future primaries, which facilitates South Carolina in retaining the "First in the South" position for presidential primaries. Relating, respectively, to the conduct by the State Election Commission of party conventions or party primary elections, the authority of political parties to conduct advisory primary elections at party expense, and the date provided by law for holding primary elections and the primaries not subject to that date, this legislation deletes obsolete date references, clarifies the authority of a political party to conduct an advisory primary at party expense, clarifies that the date of a presidential preference primary conducted by the State Election Commission must be set by the party rather than the general state law date for primaries. The legislation allows the State Election Commission to carry forward any year end balances in its filing fee and primary and general election accounts to the

succeeding fiscal year, and it provides that these carried forward funds must be expended for the same purpose.

**H.4803** received a favorable with amendment report from the full committee. This legislation enacts "**JULIAN'S LAW,**" **LEGISLATION WHICH ALLOWS EXPANDED ACCESS TO CLINICAL TRIALS USING CANNABIDIOL ON QUALIFYING PATIENTS WITH SEVERE FORMS OF EPILEPSY.** This legislation authorizes the establishment of a statewide investigational new drug application in the state, if approved by the federal Food and Drug Administration (FDA), to conduct expanded access clinical trials using cannabidiol on qualifying patients with severe forms of epilepsy. Any board certified physician practicing in an academic medical center and treating patients with severe forms of epilepsy may serve as a principal investigator for the clinical trials if approved and licensed by the FDA, and a principal investigator may include subinvestigators who have similar qualifications and are licensed by the FDA. Principal investigators and subinvestigators are required to adhere to the rules and regulations established by relevant institutional review boards, FDA, and other federal entities. Expanded access clinical trials conducted pursuant to a statewide new drug application must utilize cannabidiol from an approved source that is approved by the FDA to be used for treatment of a condition specified in an investigational new drug application. Principal investigators and subinvestigators may receive cannabidiol directly from an approved source or authorized distributor for an approved source for use in the expanded clinical trials. The legislation includes civil and criminal immunity as well as administrative protections for professionals and patients acting in compliance with these provisions. The legislation requires the state to defend a state employee against a federal claim or suit that arises or by virtue of their good faith performance of official duties. The legislation includes a specific exemption under the definition of marijuana for persons participating in a clinical trial or in an expanded access program related to cannabidiol for the treatment of severe forms of epilepsy approved for the use of those participants by the FDA.

The full Judiciary Committee gave a favorable with amendment recommendation to **H.4371, LEGISLATION WHICH ADDRESSES ISSUES RELATING TO PATENT OWNERSHIP AND POTENTIAL PATENT INFRINGEMENT.** This legislation addresses what is commonly referred to as patent trolls, companies and individuals that purchase and enforce patent rights against accused infringers without actually manufacturing goods or providing services based on the patent in question. With regards to patent ownership and potential patent infringement, this legislation prohibits the intentional interference with the existing or prospective contractual relations of another person and provides any person aggrieved with a cause of action to seek compensatory damages, injunctive relief and punitive damages. The legislation sets forth factors that must be established to successfully maintain a cause of action. Further the legislation provides that it is an unlawful trade practice for a person or entity to make a bad faith assertion of patent infringement. The legislation sets forth factors a court may consider as evidence as well as sets forth factors a court may not consider as evidence that a person has made a bad faith assertion of patent infringement. Upon a motion by a target and a finding by the court that a target has established a reasonable likelihood that a person has made a bad faith assertion of patent infringement, the court shall require the person to post a bond; the bond may not exceed \$250,000. The court may waive the bond requirement if it finds the person has available assets. The Attorney General has authority to act on a violation. These provisions do not limit other rights and remedies available. A target of conduct involving assertions of patent infringement or a person

aggrieved by a violation may bring an action for relief, and the court may award remedies to a target that prevails.

## **BILLS INTRODUCED IN THE HOUSE THIS WEEK**

### **AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS**

#### **S.714 "SOUTH CAROLINA CAPTIVE ALLIGATOR PROPAGATION ACT" Sen. Hutto**

The legislation deletes the section that regulates alligator hunting, control and management. The legislation provides for the "South Carolina Captive Alligator Propagation Act" which allows the Department of Natural Resources to regulate the business of propagating alligators for commercial purposes and the hunting, control and management of alligators.

#### **S.839 INDUSTRIAL HEMP Sen. Bright**

This bill provides that it is lawful to grow hemp in this state. Hemp is a fiber and oilseed crop with a wide variety of uses, including twine, rope, paper, construction materials, carpeting, and clothing, and has the potential for use as a cellulosic ethanol biofuel. The bill further reads that it is also lawful for an individual to cultivate, produce, or grow industrial hemp to be used for any lawful purpose, including, but not limited to, the manufacture of industrial hemp products, and scientific, agricultural, or other research related to other lawful applications for industrial hemp. Industrial hemp is excluded from the definition of marijuana.

#### **S.850 HUNTING WILD TURKEY Sen. Coleman**

The legislation revises the definitions of the terms "bait", "baiting" and "baited areas". It also provides that nothing in this provision prohibits the hunting and taking of wild turkeys on or over lands or areas that are not baited under certain circumstances.

#### **S.1010 SOUTH CAROLINA TOM YAWKEY CENTER TRUST FUND Sen. McGill**

This legislation creates the South Carolina Tom Yawkey Wildlife Center Trust Fund. The income and principal must be used only for the purposes of supporting the operation and maintenance and the acquisition of additional real property complementary to those tracts of real property owned by the South Carolina Department of Natural Resources in Georgetown County, including South Island and the greater parts of North Island and Cat Island, known collectively as the Tom Yawkey Wildlife Center. The South Carolina Department of Natural Resources has full authority over the administration of the fund. The chairman and board membership will be chairman and members of the board of the Department of Natural Resources.

#### **S.1028 WATERCRAFT OPERATED ON TUGALO LAKE Sen. Alexander**

The legislation increases the amount of horsepower of a watercraft operated on the Tugalo Lake from 20 to 25 horsepower.

**H.4945 CATCH LIMITS ON THE TAKING OF CERTAIN FISH Rep. Goldfinch**

It is unlawful for a person to take or possess in any one day more than 50 of a combination of the following: spot, whiting, and Atlantic croaker.

## **EDUCATION AND PUBLIC WORKS**

**S.999 DRIVER'S LICENSE EXTENSIONS FOR MEMBERS OF THE ARMED FORCES AND CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE Sen. Alexander**

This legislation provides that a member of the Armed Forces of the United States, who is deployed or mobilized outside of this state, or receives orders for a permanent change of station outside of this state, or a civilian employee of the Department of Defense performing temporary duty outside of the state in support of the armed forces, whose license expires while serving outside of this state or whose license expires within 90 days from the beginning of service outside of this state, may apply for an extension on the expiration of the license. The legislation requires the Department of Motor Vehicles (DMV) to grant the extension if the service member or a civilian employee of the Department of Defense provides copies of the orders that require service outside of this state and a valid military identification card, or in the case of a civilian employee, the civilian employee's Department of Defense issued identification card, or military orders supporting services outside of the state. The legislation provides that the extension expires 90 days after the member is discharged from the service or returns to this state. If the orders do not specify a return date, the service member is deemed to have returned on the date that the commanding officer of the unit provides as the return date to the department. The license is deemed to expire only upon the expiration of the extension. These provisions also apply to dependents residing with the service member. The legislation requires the DMV to post the application form on its website, and the application must be able to be processed by mail or electronically.

**H.4953 SIGNAGE REQUIREMENTS IF A MUNICIPALITY IMPOSES A FINE FOR TEXTING WHILE DRIVING Rep. Nanney**

If a municipal council adopts an ordinance that imposes a fine for texting while driving, this legislation requires the municipality to erect signs notifying drivers of the municipal limits and the ordinance. The signs must be erected on every road at the entrance to the municipality. The municipality may not impose the fine until these provisions are satisfied.

**H.4956 EDUCATION REVISIONS Rep. Rivers**

Beginning with the 2015-2016 school year, this legislation provides that each elementary, middle, and high school student must demonstrate performance at his grade level in English/language arts and mathematics before promotion to the next grade. The legislation provides that a student may satisfy this requirement by successfully completing additional coursework and testing in summer school at the expense of his parent or guardian, payable over a period of time as established by the district. The legislation requires eleventh grade students to take the WorkKeys exam and the Act exam; however, it requires eleventh grade students to achieve a minimum score only on

the WorkKeys exam as determined by the Department of Education to advance to twelfth grade. The legislation requires twelfth grade students to take the Act exam and the WorkKeys exam; however, it requires twelfth grade students to achieve a minimum score only on the WorkKeys exam as determined by the department to graduate. The legislation exempts eleventh and twelfth grade students from other exit examinations. This legislation provides that a school district may opt out of the state textbook rental system but instead must purchase the digital equivalent of a textbook and support equipment directly from vendor contracts approved by the state subject to funding. Relating to teacher certification, this legislation allows special part-time certificates allowing professionals or experts to teach subjects related to their profession or expertise. Relating to academic performance ratings, this legislation provides that real student performance and test scores but not graduation rates be used for these ratings, and it defines necessary terminology. Relating to units required for a high school diploma, this legislation provides an alternate method for obtaining a diploma for students in career and technology centers. The legislation creates two study committees to review the K-12 science content education standards and the K-12 language arts content education standards, respectively, and make recommendations concerning each.

## JUDICIARY

### **S.1007 EXPEDITED MORTGAGE FORECLOSURE PROCESS FOR ABANDONED PROPERTY** Sen. Campbell

This legislation provides a process whereby a mortgagee or successor in interest to a mortgagee may move the court for an expedited judgment of foreclosure and sale of real property that is considered abandoned. The legislation defines the term 'abandoned property'.

### **S.1034 REVISED CODE VOLUMES** Sen. L. Martin

This legislation adopts revised code volumes 5 and 8 of the Code of Laws of South Carolina, 1976, to the extent of their contents, as the only general permanent statutory law of the state as of January 1, 2014.

### **H.4943 PROHIBITION ON A PUBLIC BODY FROM ACQUIRING A MORTGAGE USING THE POWER OF EMINENT DOMAIN** Rep. Hamilton

This legislation prohibits a public body from acquiring a mortgage through the power of eminent domain. Further, for purposes of Section 13, Article I of the State Constitution the legislation includes a stated finding of the General Assembly that condemning a mortgage is not a public use and does not remedy blight.

### **H.4947 DEFINITION OF THE TERM "PUBLIC BODY" AS IT RELATES TO THE FREEDOM OF INFORMATION ACT** Rep. Atwater

This legislation provides that the definition of a 'public body,' as it relates to the Freedom of Information Act, includes any entity which by law is permitted to offer its employees the opportunity to participate in either the State Health and Dental Insurance Plan or in one of the State Retirement Systems, or both, and which the entity then offers to its employees these opportunities thereby conferring upon these employees benefits supported in part by public funds.

**H.4598 "ALLISON'S LAW" - PROHIBITION ON THE DISTRIBUTION OF  
CRIME OR ACCIDENT SCENE IMAGES OF MINORS ON SOCIAL  
MEDIA OR THROUGH OTHER SIMILAR MEANS Rep. Munnerlyn**

This legislation provides that it is unlawful for a person, in connection with a social media service, or through other similar means, to utilize a social media service to knowingly post or otherwise publish a crime or accident scene image of a minor. A person who violates this provision is guilty of a misdemeanor and, upon conviction, must be fined not more than \$500 or imprisoned for not more than 30 days.

**H.4959 EXPANDED PROHIBITION ON THE REGULATION OF WEAPONS  
Rep. White**

Current law provides that no governing body of any county, municipality, or other political subdivision in the State may enact or promulgate any regulation or ordinance that regulates or attempts to regulate the transfer, ownership, possession, carrying, or transportation of firearms, ammunition, components of firearms, or any combination of these things. This legislation includes knives among the weapons covered and also provides that a local governmental body may not enforce any regulation or ordinance that regulates or attempts to regulate these weapons.

## **LABOR, COMMERCE AND INDUSTRY**

**S.882 EXCLUSION FROM THE DEFINITION OF EMPLOYMENT FOR  
INDIVIDUALS THAT TRANSPORT VEHICLES FOR AUTOMOBILE  
DEALERS Sen. Sheheen**

This bill revises the definition of employment to establish an exclusion for an individual performing a service for an automobile dealer related to the transportation of individual vehicles to purchasers or sellers of vehicles, including, but not limited to, an automobile auction, when the contract of service contemplates that the service is to be performed personally by the individual, the individual does not own the vehicle used in connection with the performance of the service, and the service is in the nature of a single transaction with no guarantee of a continuing relationship with the automobile dealer for whom the service is performed.

**S.998 MOTORCYCLE DEALER EXHIBITION LICENSES Sen. Shealy**

This bill provides for the issuance of a motorcycle dealer exhibition license that allows a holder to exhibit motorcycles and their related products at fairs, recreational or sports shows, vacation shows, and other similar events or shows.

**S.1065 LIMITED LICENSING OF SELF-STORAGE FACILITIES TO SELL OR  
OFFER INSURANCE Sen. Hayes**

This bill provides for the limited licensing of self-storage facilities to sell or offer insurance.

**H.4927 DISCLOSURE REQUIREMENTS INVOLVING THE LIFE INSURANCE  
POLICY OF A DECEASED INDIVIDUAL Rep. K. R. Crawford**

This bill establishes a protocol under which life insurance companies are required to disclose certain information about a deceased insured's life insurance upon the request of licensed funeral directors or their employees. Funeral directors who do not receive a timely response from insurers may refer the request to the Department of Consumer Affairs, which shall treat the referral as a consumer complaint. Funeral directors are subject to requirements to make reasonable efforts to locate beneficiaries in a timely manner, relay information obtained from the insurance carrier regarding any life insurance contracts, and provide notice that the beneficiary of a life insurance policy has no legal duty or obligation to spend any of that money on the funeral, debts, or obligations of the deceased. Penalties are established for violations.

**H.4932 INSURANCE LAW REVISIONS Rep. Anderson**

This bill revises insurance law definitions concerning risk-based capital. The legislation revises provisions relating to preparing and submitting a risk-based capital report, so as to provide for determining a health organization's risk-based capital report and to provide that each risk for a life and health insurer, property and casualty insurer, and a health organization must be determined in a certain manner. The legislation revises provisions relating to company action level events, so as to add an additional event concerning a health organization. The legislation revises provisions relating to the role of the Director of the Department of Insurance when a mandatory control level event occurs, so as to add provisions concerning health organizations. The legislation revises provisions relating to hearings available to a licensee to challenge a determination or action by the director in response to a mandatory control level event, so as to provide a licensee may have the hearing confidentially, on the record, and before the director upon provision of certain notice, and to provide the director shall set a date for the hearing in a certain manner. The legislation revises provisions relating to the confidentiality of risk-based capital reports and adjusted risk-based capital reports, so as to provide circumstances in which the director may share, receive, and use certain related information that is confidential and privileged. The legislation revises provisions relating to exemptions from reporting requirements, so as to add provisions concerning domestic health organizations.

**H.4946 REGULATION OF CERTIFIED PUBLIC ACCOUNTANTS Rep. Toole**

This bill revises the composition of the South Carolina Board of Accountancy. The legislation revises provisions relating to licensing and registration requirements for accountants, so as to provide that if a licensed certified public accountant in the performance of his duties conducts certain investigations, he is exempt from the licensing requirements of security and private investigation businesses. The legislation revises provisions relating to licensing and registration requirements for accountants to require such applicants for licensure to undergo state and federal criminal records checks and to require continuing education or additional experience, as applicable, for an applicant who delays submitting an application for a substantial period of time after passing the certified public accounting examination or obtaining accounting experience. The legislation revises provisions relating to qualifications for registration of a certified public accounting firm, so as to provide that a simple majority of the firm ownership must be certified public accountants. The legislation further provides qualifications and continuing professional education requirements for noncertified public accountant owners, and gives the Board Of Accountancy the discretion to charge registration and renewal fees. The legislation revises provisions relating to the investigation of complaints and disciplinary proceedings, so as to provide that in conducting such investigations and proceedings the Department of Labor, Licensing and Regulation may



require state and federal criminal records checks. The legislation revises provisions relating to applications for license renewal, so as to provide that such applications must be filed on or before February first and to provide that late filings may result in reinstatement fees and sanctioning of the licensee. The legislation revises provisions relating to applications for registration renewal, so as to provide that such applications must be filed on or before February first and to provide that late filings may result in sanctioning of the registrant.

**H.4950 EXEMPTIONS FROM THE DEFINITION OF EMPLOYMENT FOR  
UNEMPLOYMENT BENEFIT PURPOSES Rep. Atwater**

This bill revises exemptions from the definition of employment for unemployment benefit purposes, so as to provide an exemption for certain motor carriers that use independent contractors.

## **WAYS AND MEANS**

**S.985 “FAIRNESS IN LODGING ACT” Sen. Cleary**

This bill enacts the “Fairness in Lodging Act” so as to allow municipalities and counties to implement, by ordinance, additional enforcement provisions for the business license tax and the local accommodations tax as those provisions apply to the owners of residential real property who rent the property to tourists, including data sharing with the South Carolina Department of Revenue, specific notice to property owners included in property tax bills, an additional penalty that may be imposed for noncompliance after the receipt of such a notice, and directions to the Department of Revenue to identify “rental by owner” websites advertising tourists rentals and request them to post on the websites a statement regarding the legal obligations of the owners of property in this state listed on the website, to pay all applicable local and state taxes and fees with respect to such rentals.

**S.1033 OUT-OF-STATE BUSINESSES RESPONDING TO A DECLARED  
STATE DISASTER OR EMERGENCY NOT TO BE TAXED OR  
REGULATED AS IN-STATE BUSINESSES Sen. Campbell**

This bill provides that an out-of-state business that conducts operations within this state for the purposes of performing work or services related to a declared state disaster or emergency during a disaster period must not be considered to have established a level of presence that would require that business to register, file, and remit state or local taxes or that would require that business or its out-of-state employees to be subject to any state licensing or registration requirements.

**H.4928 TOURISM EXPENDITURE REVIEW COMMITTEE Rep. Clemmons**

This bill provides for the notification of a municipality or county by the Tourism Expenditure Review Committee if the committee finds an expenditure to be in noncompliance. The legislation establishes a procedure for refunding the amount found in noncompliance and provides for actions to be taken against a municipality or county that does not refund the noncompliant amount. The legislation establishes a procedure for certification by the municipality or county to the committee that noncompliant amounts have been refunded. The legislation specifies the fiscal years to which these provisions apply, and provides for these provisions to be repealed June 30, 2015.

**H.4944 MULTIPLE LOT PROPERTY TAX DISCOUNT Rep. Skelton**

This bill revises property tax provisions relating to the multiple lot discount, so as to eliminate the provision that removes the discounted value after five years for a developer and eliminate the provision that removes the discounted value after one year for a homebuilder.

**H.4957 MOTOR FUEL USER FEES AND ROAD USE FEES Rep. Loftis**

This bill revises motor fuel user fees definitions, so as to include liquefied natural gas within the definition of “alternative fuel”. The legislation provides for the manner in which natural gas and liquefied natural gas must be dispensed and imposes the motor fuel user fee on liquefied natural gas and compressed natural gas. The legislation revises provisions relating to vehicle weights and loads, so as to allow for an additional two thousand pounds of weight for certain vehicles fueled by natural gas. The legislation revises provisions relating to motor carriers, so as to define terms, to provide that the article does not apply to a small commercial vehicle. The legislation establishes provisions for certain vehicles to be assessed and apportioned based on a road use fee instead of property taxes and provides that the road use fee is due at the same time as registration fees. The legislation provides for the distribution of the road use fee, and exempts certain semitrailers, trailers, large commercial motor vehicles, and buses from ad valorem taxation. The legislation revises provisions relating to the registration of motor vehicles, so as to provide a registration system for large commercial motor vehicles and buses. The legislation revises provisions relating to registration fees, so as to provide that fees for licensing and registration and the road use fee may be credited or prorated if the fee exceeds four hundred dollars instead of eight hundred dollars. The legislation revises provisions relating to the imposition of local fees, so as to apportion certain license fees and taxes. The legislation revises provisions relating to the issuance of tax notices, so as to make conforming changes; and to repeal the definition of “automotive three-wheeled vehicle”.

## Legislative Update, March 25, 2014

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